

HOUSE BILL REPORT

SSB 5410

As Passed House - Amended:

April 16, 2009

Title: An act relating to online learning.

Brief Description: Regarding online learning.

Sponsors: Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Oemig, Morton, McAuliffe, Tom and Eide).

Brief History:

Committee Activity:

Education: 3/17/09, 3/27/09 [DPA];

Ways & Means: 4/2/09, 4/4/09 [DPA(ED)].

Floor Activity

Passed House - Amended: 4/16/09, 98-0.

Brief Summary of Substitute Bill (As Amended by House)

- Defines multi-district online provider and requires the Superintendent of Public Instruction (SPI) to adopt criteria and a process for approving and rescinding approval of them.
- Directs the SPI to create an Office of Online Learning and initially hire staff from the Digital Learning Commons to develop a comparative website, develop model agreements between school districts and approved providers, and offer technical assistance.
- Authorizes state funding for students enrolled in online courses, beginning in the 2011-12 school year, only if the courses are offered by an approved online provider, through a school district program where fewer than 10 percent of students in the program are from other districts, or through an inter-district cooperative.
- Requires school districts to adopt policies and procedures regarding student access to online learning by the 2010-11 school year.
- Requires multi-district online providers to be accredited by the Northwest Association of Accredited Schools or another national, regional, or state accreditation program.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Directs the Office of the Superintendent of Public Instruction to conduct a review of online courses and programs offered in 2008-09 to create baseline information about a variety of issues and submit a report by December 1, 2009.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass as amended. Signed by 13 members: Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox, Dammeier, Hunt, Johnson, Lias, Maxwell, Orwall, Santos and Sullivan.

Staff: Barbara McLain (786-7383)

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Education. Signed by 20 members: Representatives Linville, Chair; Ericks, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Ross, Schmick, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 2 members: Representatives Hinkle and Priest.

Staff: Ben Rarick (786-7349)

Background:

According to an annual survey conducted by the Office of the Superintendent of Public Instruction (OSPI), approximately 14,000 students enrolled in one or more online courses in 2007-08, an increase from just over 6,000 students in 2002-03. Online learning occurs in three primary ways:

1. The student is enrolled in his or her resident district and takes an online course while at school, using the school's computer lab. This may occur because the student needs to recover credits or because the course is not offered at the school.
2. The student is enrolled in his or her resident district, but takes one or more online courses from home. Sometimes the student is homeschooled for a portion of the day and enrolled in online learning offered by the school district for the other portion of the day.
3. The student takes most or all courses through online learning. The student might be enrolled in his or her resident district if that district offers a complete online learning program, or the student might enroll in another district for this purpose.

There are also three ways that online learning courses and programs are typically provided:

1. *District-run programs.* School districts such as Federal Way, Everett, Evergreen, and Spokane have long-established internet or virtual academies that offer online courses

primarily, although not exclusively, to students residing in the district. There is at least one multi-district consortium in the state that operates in a similar fashion.

2. *Contracted programs.* School districts have broad statutory authority to contract with providers of educational services, including both non-profit and for-profit organizations. Several school districts have contracted with online learning providers to offer courses and programs. Sometimes the program is provided for students residing in the district. Other programs actively target a statewide population, and students from multiple districts enroll in the contracting district to access the program.
3. *Online portals.* Some school districts access online courses through a portal service offered on a subscription basis by a third party. The Digital Learning Commons (DLC) is a non-profit organization subsidized by the state that offers school districts online learning resources as well as an online course catalog. The DLC does not offer the courses directly, but contracts with program providers. Approximately two-thirds of the DLC's total operating budget in 2008-09 comes from a state appropriation of \$1.5 million. Funding for the DLC was not included in the Governor's proposed budget for the 2009-11 biennium.

In 2005 the Legislature created a mechanism for students taking online courses away from school to be counted as enrolled in the district for purposes of state funding. The Alternative Learning Experience (ALE) rules adopted by the OSPI allow for a student to be considered enrolled based on the estimated weekly hours of learning contained in a Student Learning Plan that must be prepared for each student, as long as the student is found each month to be making satisfactory progress. The law also requires digital programs to be accredited through the state or regional accreditation program. However, legislation enacted in 2006 eliminated the authority of the State Board of Education to accredit public schools, so there is no longer a state accreditation program. The ALE law and rules comprise the primary state regulation of online learning programs.

The Northwest Association of Accredited Schools is one of six regional accreditation agencies that accredits distance education, foreign nation, K-12, post-secondary non-degree granting, and special purpose schools.

Summary of Amended Bill:

Approval Process. "Multi-district online provider" (online provider) is defined as:

1. a private or non-profit organization that contracts with a school district or multiple districts to provide online courses or programs to K-12 students from more than one district; or
2. a school district that provides online courses or programs to non-resident students.

The term does not apply to a school district where fewer than 10 percent of the students enrolled in an online course or program are from other districts, or to regional programs jointly developed by more than one school district or through an inter-district cooperative with an Educational Service District (ESD). "Online course" and "online school program" are defined.

By December 1, 2009, the Superintendent of Public Instruction (SPI) must develop and implement criteria and a process for approving and rescinding approval of online providers, and an appeals process. The SPI must require online providers to be accredited by the Northwest Association of Accredited Schools (NAAS) or another national, regional, or state accreditation program. Other criteria include alignment with state standards and a requirement that all teachers be certificated under state law.

Initial approval of online providers is for four years. Online providers accredited by the NAAS or approved by the DLC before the effective date of the bill are exempt from initial approval until August 31, 2012, but must comply with approval requirements and renewals. The first round of approval decisions must be made by April 1, 2010. Thereafter, the SPI makes annual approval decisions by November 1 of each year.

Beginning in the 2011-12 school year, school districts can claim state funding for students enrolled in online learning only if the course or program is:

1. offered by an approved online provider;
2. offered by a school district where fewer than 10 percent of the students enrolled are from other districts; or
3. offered by a regional program jointly developed by more than one district or through an inter-district cooperative with an ESD.

Office of Online Learning. The SPI must create an Office of Online Learning. Initially, to the extent funds are available and in accordance with state law, the SPI hires staff formerly employed by the DLC to:

1. develop and maintain a website with specified comparative information regarding online learning opportunities offered by approved online providers;
2. develop model agreements with approved online providers that address standard contract terms in order to provide a template that allows school districts to offer the online courses or programs in their district; and
3. in collaboration with Educational Technology Centers at the ESDs, provide technical assistance to school districts in developing online learning programs and provide online learning tools to the extent funds are available.

The SPI must establish an online learning advisory committee and submit annual reports beginning January 15, 2011, to the State Board of Education, the Governor, and the Legislature regarding online learning.

Policies and Procedures. By August 31, 2010, each school district must develop policies and procedures for student access to online courses and online learning programs, including eligibility criteria, types of courses available through the district, methods the district will use to support students, course fee policies, and granting of high school credit. The SPI, in consultation with the Washington State School Directors Association, must develop and disseminate model policies and procedures by February 1, 2010. School districts must submit their policies to the SPI by September 15, 2010, and by December 1, 2010, the SPI must summarize the policies and submit a report to the Legislature.

Beginning in the 2010-11 school year, online courses must be designated as such when reported through the student data system.

Other. In the statute pertaining to Alternative Learning Experiences, the term "digital program" is replaced with "alternative learning experience online program" and refers to online courses delivered to students independently from a regular classroom schedule. These programs are required to be accredited by the NAAS or another national, regional, or state accreditation program.

The SPI must conduct a review of online courses and programs offered in 2008-09 to create baseline information about student enrollment, contract terms and funding, the fiscal impact on levy bases and levy equalization from interdistrict enrollment, staffing ratios, and other issues.

The SPI must also assess the level of funding provided for online enrollment relative to the basic education general allocation, as well as the appropriate share of per-student allocations between resident and serving districts. A report is required by December 1, 2009.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 27, 2009.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Education):

(In support) The power of online learning is huge. It reaches so many demographics: gifted students, struggling students, rural and homeschooled students. We want to expand access to online programs, but also assure the quality of programming. There needs to be a more clear process to assure the quality of courses. The bill is a work in progress. If there are specific concerns, we should find ways to address them. There is no doubt that online learning can be fabulous. However, there are some problems. There have been cases of students getting high school credits placed on their transcripts in a week's time from an online provider under contract with a school district. This is really about consumer protection. Part of the bill is a website providing comparative information on various programs; currently that information is difficult to find. The hope is to have the OSPI negotiate agreements with providers so that school districts do not have to do all that work themselves and may be more willing to sign up for online courses so that their students don't have to transfer to another district. There are cases of students enrolled in two districts at the same time in order to participate in band and sports, or for special education. There is a need for school districts to have thoughtful policies on these and other issues to support online learning.

Online learning belongs in the school system. It has blossomed rather unexpectedly. It is very appropriate for the state to impose some regulatory authority because it is state dollars that are being used to pay for these programs. Some problems were identified in a State Auditor report. Students and parents should have access to better information. The Digital

Learning Commons (DLC) has been very responsive to the needs of school district subscribers and when they have observed a problem with a provider, they have removed them. Some school districts would like to be able to offer programs, but can't because the contractor has an exclusive arrangement with another district.

(With concerns) The effort is appreciated, and it is realized that this is a work in progress. There are some key elements that should be in the bill: the website, the requirement for Washington certified teachers, and the retention of local district authority to grant credits. But the authority and responsibility for oversight must rest with the OSPI. The DLC is a fellow provider and therefore in the nature of a competitor. Regional accreditation already offers quality assurance. The concept is supported, but there are concerns about the role of the DLC. The timelines are problematic. However, the comparative website is a resource that all providers support. Accreditation provides high standards, and the ALE rules also provide a high quality assurance. If this approval process is going to work, it must be done well and done by the OSPI.

(Opposed) If the bill passes without amendments, online schools will be shut down. The approval process should be moved to take effect in the 2010-11 school year. Approval should be fully placed under the OSPI. Existing programs should stay operational and continue to receive funding. Students who were struggling with school are now on the honor roll and show great confidence in learning. Experienced teachers are doing their best teaching online because it is possible to give a much higher level of individual feedback than ever before. Incredible relationships are developed. Many of the students are homeschooled and are fully engaged in this learning style. This type of education is simply not possible in a brick and mortar classroom with 30 children. Many of the students are drop-outs who have come back to school and finally feel that they fit in. It is not necessary to impose restrictions. The OSPI already oversees online learning and they have all the structure they need. National accreditation is a rigorous process that programs have already gone through. This is a time of financial cutbacks, and it would cost money to operate this regulatory program.

(Information only) The DLC was created as a public-private partnership to improve access to online resources to improve student achievement. The DLC is experienced and is ready to work with the OSPI and others on this issue. Formerly homeschooled children like online learning. They are not disrespected, bullied, or ignored. They have the opportunity for field trips and art and science projects. Online learning offers one-on-one instruction. The children are happy, and they will be equipped and ready for success in life.

Staff Summary of Public Testimony (Ways & Means):

(In support) The current version of the bill takes steps to improve accountability, which is important. The current system of having online programs work through school districts is working, but it is understandable that there is a desire to gather additional information to ensure accountability. The programs look forward to working with the Office of the Superintendent of Public Instruction (OSPI) on this issue.

(In support with concerns) There is support for moving forward with an online learning bill, but not the current version. Instead, there has been work done on a modified version of the Senate bill that should move forward. That amendment would set up an approval process to

examine the quality of programs; create a website with comparative information and evaluations so that parents, teachers, and students could get a feel for the programs; and have school districts adopt policies for online learning. In addition, the OSPI would be able to collect better data about enrollment in online learning. There are many stories about how wonderful online learning is, but there are also stories where the online learning experience is not a good one. It is time to move forward with a state regulatory process and oversight. There also needs to be some simplicity for districts to establish their own programs or contracts to reduce the tensions that are caused by inter-district enrollment.

There is a lot of money involved with these programs, because the money follows the student. It causes stress on the system to have students virtually moving around the state. A recent report by the State Auditor strongly encourages greater state oversight. The research done by the OSPI needs to be in-depth and rigorous. Online learning is an important option for students, but it is time to take some action for additional oversight.

(Opposed) None.

Persons Testifying (Education): (In support) Senator Oemig, prime sponsor; Bob Butts, Office of the Superintendent of Public Instruction; Lucinda Young, Washington Education Association; and Mark Clements, River Homelink and Battle Ground School District.

(With concerns) Marcia Fromhold, Evergreen School District; Joe Pope, Northwest Association of Accredited Schools; Susan Stewart, Washington Virtual Academy; and Ron Mayberry, Washington Internet Academy.

(Opposed) Nathan Noel, Jolene Bevill, and Sheryl Landers, Kaplan Academy of Washington; Jeffery Bush, Insight Schools; and Robert Farwell, Advanced Academics.

(Information only) Deborah Woodley, Leamon Woodley, Ginger Pagan, and Felix Pagan, Washington Virtual Academy; and Judy Margrath-Huge, Digital Learning Commons.

Persons Testifying (Ways & Means): (In support) Jeff Bush, Insight School of Washington; and Carolyn Logue, K-12 Washington Virtual Academy.

(In support with concerns) Bob Butts and Martin Mueller, Office of the Superintendent of Public Instruction; and Lucinda Young, Washington Education Association.

Persons Signed In To Testify But Not Testifying (Education): None.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.